



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

MEH:ddj

Docket No: 2725-00

1 August 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum of 15 June 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

15 Jun 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

Ref: (a) BCNR memo of 5 May 00
(b) DOD Financial Management Regulation (Vol 7B)
(c) PHONCON LCDR Delgado/CWO4 Abrams NPC (PERS-622) of
12 Jun 00

1. Per reference (a), recommend the BCNR not correct LCDR Delgado's record to reflect that he elected not to participate in the Survivor Benefit Plan (SBP) for spouse only coverage.

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Retired List on 1 January 2000 and was enrolled in SBP automatically at that time.

b. Per reference (b), the decision to decline or participate in SBP is irrevocable. Discontinuation in SBP may take place when there is no eligible beneficiary due to death or divorce. Additionally, a member who retires on or after 21 September 1972 has automatic participation at the maximum level, unless he/she elects otherwise before retirement.

c. Public Law 99-145 of 8 November 1985 (effective 1 March 1986) requires spousal concurrence for any election to decline participation or for less than maximum coverage for spouse. Requirement may be waived if spouse's location is unknown and provides evidence that reasonable efforts were expended to locate the spouse. Per reference (c), [REDACTED] did not obtain his spouse's signature on the SBP election form.

M. P. WARDLAW
Head, Navy Retired Activities
Branch (PERS-622)